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C O N F I D E N T I A L SECTION 01 OF 02 KHARTOUM 001353

SIPDIS

DEPARTMENT FOR AF A/S FRAZER, SE WILLIAMSON, AF/SPG, NSC
FOR BPITTMAN AND CHUDSON

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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [AU](#) [UN](#) [SU](#)
SUBJECT: "WE'VE DONE ENOUGH FOR ICC DEFERRAL," CLAIMS
BASHIR CONFIDANTE

Classified By: CDA Alberto M. Fernandez, reasons 1.4 (b) and (d)

11. (C) CDA Fernandez met with Minister of Federal Rule Abdel Rahman Saeed on September 3. Saeed is an interesting figure in Sudanese politics. A career military man, he was Deputy Chief of Staff of SAF (Sudanese Armed Forces) in 1989 when his subordinate, General (now Marshal) Omar Al-Bashir led a coup which overthrew the democratically elected government of Sadiq al-Mahdi. Saeed, a person noted for his personal probity in corrupt Sudan, once passed a (ultimately commuted) lengthy prison sentence on his first cousin for corruption - an unheard of idea in a country where family and tribe come first. Saeed went into exile after the 1989 coup and joined up with the anti-regime National Democratic Alliance (NDA), which included the SPLM. Once the CPA was signed in 2005, he returned to Sudan and was appointed first Minister of Science and Technology and in the 2007 cabinet reshuffle, Minister of Federal Rule, which funds the work of Sudan's federal states. He is seen as a non-partisan, moral figure with little political but supposedly personal sway with the President. He is not one of the real powers of the regime (Nafie, Taha, Ghosh, Awad al-Jaz) but rather a person the President likes and respects as an old military comrade who refrains from being one of Bashir's many "yes men." Perhaps because of this, Saeed was appointed a member of the senior GNU committee responding to the challenge of a possible ICC indictment of President Bashir.

12. (C) While the Charge had hoped to talk about Darfur, Saeed wanted to talk about one thing: the ICC issue. After outlining his background as an independent and even oppositionist to the NCP (until 2005), Saeed said that the ICC issue for Sudan was quite simple, "it is one of sovereignty, of national dignity." All matters are negotiable with the West, he noted, but not this one. Handing over President Bashir or "even an arrest warrant being issued" could have incalculable effects not just inside Africa's largest country, but on the stability of the entire region. "It could kill the CPA," he warned, "end the possibility of progress in Darfur, and lead to the growth of war and terrorism in the region." Darfuri rebels would be emboldened and would never make peace. "I can tell you that I believe in justice in Sudan but the country comes first and targeting Bashir" puts all Sudan in the crossfire.

13. (C) Saeed's deputy, the SPLM's Minister of State for Federal Rule John Angol chimed in. The legal considerations surrounding the ICC indictment of Bashir are unambiguous. Sudan is not a signatory to the Rome treaty, a fact that is overlooked in discussions of the matter. "I'm not seeing this as a legal issue but a political one," he said, adding that if indeed it was a legal case there would be some transparency in regards to the evidence and where it came from. He decried the precedent of indicting a sitting head of state, stating that "we will not be the first" to give one up to the ICC. Angol questioned whether targeting Bashir was

intended to cause the "disintegration of the country." If the country is going to be devastated, what is the point of unity? Not only will the South leave, probably before the 2011 date set for a referendum but Darfur and the East will also want to go their own way. Angol also decried the composition of the P-5 at the UNSC arguing that it was the relic of a past era.

14. (C) Charge Fernandez responded that the United States was not a member of the ICC and had nothing to do with its internal deliberations. Our priorities are full implementation of the CPA and the urgent alleviation of suffering in Darfur while working towards a full peace there as soon as possible. He noted that while Sudan was not a member of the ICC, the Security Council had unanimously (US and China abstaining) referred the case of Darfur to the ICC three years ago. The United States has not decided what it will do should an article 16 ICC deferral be introduced at the Security Council. We will be guided by the situation on the ground in Sudan, especially in Darfur, and it would behoove the Sudanese Government to make urgent, substantive changes in its behavior there. The fact that we had seen a horrific massacre by GOS forces less than two weeks at Kalma IDP camp was a major setback for Sudan making its case to the Security Council. So far, no one sees any justification for a deferral and the clock is ticking. CDA noted that he had accompanied President Bashir to Darfur last month and had heard some good things "but I haven't seen anything tangible yet, if anything, Kalma further poisoned the atmosphere."

15. (C) Saeed said that Sudan is making changes for the better to improve the situation in Darfur. All obstacles to UNAMID

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deployment have been removed and any delays are because of the UN not Sudan. They will be working very closely with the new mediator Bassole. The Sudanese Government has involved all political parties in a search for Darfur peace and offered to sit down with all and any rebel group to make peace. "Give us time to do what is right," he pleaded. As for Kalma, the Justice Ministry had announced a criminal investigation and had asked for cooperation with UNAMID to do so. "This shows our cooperation. We have done enough to merit some breathing room at the Security Council."

16. (C) CDA Fernandez countered that the announcements about Kalma were good but "so far these are just words." The guilty should be punished and quickly. If the Central Government is not complicit, if it is serious about the views of the international community, it will take very quick and public action to mete out punishment. He noted the alacrity of the regime to punish JEM rebels after the Omdurman attack. He appealed to Saeed, as a former general, "with leadership and with sovereignty, also comes responsibility." Fernandez added that while some rebels may indeed be recalcitrant and true peace may be elusive in the short run, there is so much the government could be doing to change the dynamic with the people of Darfur, especially the IDPs, and to end ongoing harassment of NGOs which continues unabated. He also warned that using the possibility of instability, violence or terrorism in Sudan as an excuse or special plea to try to blackmail the Security Council "is probably a bad idea." Saeed responded that "we are sincere in seeking to change the ways of the past and in wanting your help to do so."

17. (C) Comment: While the meeting was quite cordial, former Lt. General Saeed was clearly frustrated that Sudan did not get credit for its "good behavior" of the past months. The fact that this slight improvement is almost entirely tactical - grudgingly removing obstacles to UNAMID deployment that the regime had earlier put in place - is very common procedure for the Khartoum regime. Even if the regime punishes some officials in the Kalma Camp incident and continues to have a somewhat better attitude about UNAMID deployment, this hardly constitutes the sweeping expected improvements in Darfur the regime trumpeted in July and August. And this tactical,

partial improvement is disturbingly accompanied by a steady drumbeat of apocalyptic threats of regime misbehavior in the near future should the ICC proceed with its case against Sudan's president. End comment.

FERNANDEZ